

3793

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. GIANARIS, GUNTHER, SPANO -- Multi-Sponsored by --
M. of A. SCHROEDER -- read once and referred to the Committee on
Correction

AN ACT to amend the correction law, in relation to the registration of
sex offenders

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 6 of section 168-b of the correction law, as
2 amended by chapter 106 of the laws of 2006, is amended to read as
3 follows:
4 6. The division shall also establish a [subdirectory] DIRECTORY pursu-
5 ant to section one hundred sixty-eight-q of this article.
6 S 2. Paragraphs (a), (b) and (c) of subdivision 6 of section 168-1 of
7 the correction law, paragraphs (a) and (b) as amended by chapter 106 of
8 the laws of 2006 and paragraph (c) as separately amended by chapters 318
9 and 680 of the laws of 2005, are amended to read as follows:
10 (a) If the risk of repeat offense is low, a level one designation
11 shall be given to such sex offender. In such case the law enforcement
12 agency or agencies having jurisdiction and the law enforcement agency or
13 agencies having had jurisdiction at the time of his or her conviction
14 shall be notified and may disseminate relevant information which may
15 include a photograph and description of the offender and which may
16 include the name of the sex offender, approximate address based on sex
17 offender's zip code, background information including the offender's
18 crime of conviction, modus of operation, type of victim targeted, the
19 name and address of any institution of higher education at which the sex
20 offender is enrolled, attends, is employed or resides and the
21 description of special conditions imposed on the offender to any entity
22 with vulnerable populations related to the nature of the offense commit-
23 ted by such sex offender. Any entity receiving information on a sex
24 offender may disclose or further disseminate such information at its

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 discretion. IN ADDITION, IN EACH SUCH CASE, THE NAME OF THE SEX OFFEN-
2 DER, A PHOTOGRAPH OF THE SEX OFFENDER AND APPROXIMATE ADDRESS BASED ON
3 THE SEX OFFENDER'S ZIP CODE SHALL ALSO BE PROVIDED IN THE DIRECTORY
4 ESTABLISHED IN THIS ARTICLE.

5 (b) If the risk of repeat offense is moderate, a level two designation
6 shall be given to such sex offender. In such case the law enforcement
7 agency or agencies having jurisdiction and the law enforcement agency or
8 agencies having had jurisdiction at the time of his or her conviction
9 shall be notified and may disseminate relevant information which shall
10 include a photograph and description of the offender and which may
11 include the exact name and any aliases used by the sex offender, approx-
12 imate address based on sex offender's zip code, background information
13 including the offender's crime of conviction, mode of operation, type of
14 victim targeted, the name and address of any institution of higher
15 education at which the sex offender is enrolled, attends, is employed or
16 resides and the description of special conditions imposed on the offen-
17 der to any entity with vulnerable populations related to the nature of
18 the offense committed by such sex offender. Any entity receiving infor-
19 mation on a sex offender may disclose or further disseminate such infor-
20 mation at its discretion. In addition, in such case, the information
21 described [herein] IN THIS PARAGRAPH shall also be provided in the
22 [subdirectory] DIRECTORY established in this article and notwithstanding
23 any other provision of law, such information shall, upon request, be
24 made available to the public.

25 Such law enforcement agencies shall compile, maintain and update a
26 listing of vulnerable organizational entities within its jurisdiction.
27 Such listing shall be utilized for notification of such organizations in
28 disseminating such information on level two sex offenders pursuant to
29 this paragraph. Such listing shall include and not be limited to:
30 superintendents of schools or chief school administrators, superinten-
31 dents of parks, public and private libraries, public and private school
32 bus transportation companies, day care centers, nursery schools, pre-
33 schools, neighborhood watch groups, community centers, civic associ-
34 ations, nursing homes, victim's advocacy groups and places of worship.

35 (c) If the risk of repeat offense is high and there exists a threat to
36 the public safety a level three designation shall be given to such sex
37 offender. In such case, the law enforcement agency or agencies having
38 jurisdiction and the law enforcement agency or agencies having had
39 jurisdiction at the time of his or her conviction shall be notified and
40 may disseminate relevant information which shall include a photograph
41 and description of the offender and which may include the sex offender's
42 exact name and any aliases used by the offender, exact address, address
43 of the offender's place of employment, background information including
44 the offender's crime of conviction, mode of operation, type of victim
45 targeted, the name and address of any institution of higher education at
46 which the sex offender is enrolled, attends, is employed or resides and
47 the description of special conditions imposed on the offender to any
48 entity with vulnerable populations related to the nature of the offense
49 committed by such sex offender. Any entity receiving information on a
50 sex offender may disclose or further disseminate such information at its
51 discretion. In addition, in such case, the information described [here-
52 in] IN THIS PARAGRAPH shall also be provided in the [subdirectory]
53 DIRECTORY established in this article and notwithstanding any other
54 provision of law, such information shall, upon request, be made avail-
55 able to the public.

1 Such law enforcement agencies shall compile, maintain and update a
2 listing of vulnerable organizational entities within its jurisdiction.
3 Such listing shall be utilized for notification of such organizations in
4 disseminating such information on level three sex offenders pursuant to
5 this paragraph. Such listing shall include and not be limited to:
6 superintendents of schools or chief school administrators, superinten-
7 dents of parks, public and private libraries, public and private school
8 bus transportation companies, day care centers, nursery schools, pre-
9 schools, neighborhood watch groups, community centers, civic associ-
10 ations, nursing homes, victim's advocacy groups and places of worship.

11 S 3. Section 168-q of the correction law, as added by chapter 192 of
12 the laws of 1995, the section heading and subdivision 1 as amended by
13 chapter 106 of the laws of 2006, is amended to read as follows:

14 S 168-q. [Subdirectory] DIRECTORY; internet posting. 1. The division
15 shall maintain a [subdirectory of level two and three] DIRECTORY OF sex
16 offenders[. The subdirectory] WHICH SHALL BE MADE AVAILABLE AT ALL TIMES
17 ON THE INTERNET VIA THE DIVISION HOMEPAGE FOR PURPOSES OF PUBLIC ACCESS.

18 (A) IN THE CASE OF A SEX OFFENDER WHO HAS BEEN GIVEN A LEVEL ONE
19 DESIGNATION, THE DIRECTORY SHALL INCLUDE THE NAME OF THE SEX OFFENDER, A
20 PHOTOGRAPH OF THE SEX OFFENDER AND APPROXIMATE ADDRESS BASED ON THE SEX
21 OFFENDER'S ZIP CODE.

22 (B) IN THE CASE OF A SEX OFFENDER WHO HAS BEEN GIVEN A LEVEL TWO OR
23 THREE DESIGNATION, THE DIRECTORY shall include the exact address,
24 address of the offender's place of employment and photograph of the sex
25 offender along with the following information, if available: name, phys-
26 ical description, age and distinctive markings. Background information
27 including the sex offender's crime of conviction, modus of operation,
28 type of victim targeted, the name and address of any institution of
29 higher education at which the sex offender is enrolled, attends, is
30 employed or resides and a description of special conditions imposed on
31 the sex offender shall also be included. [The subdirectory shall have
32 sex offender listings categorized by county and zip code. A copy of the
33 subdirectory shall annually be distributed to the offices of local
34 village, town, city, county or state law enforcement agencies for
35 purposes of public access. The division shall distribute monthly updates
36 to the offices of local village, town, city, county or state law
37 enforcement agencies for purposes of public access. Such departments]

38 (C) THE DIVISION shall require that a person [in writing] provide
39 [their] HIS OR HER name and address prior to viewing the [subdirectory]
40 DIRECTORY. Any information identifying the victim by name, birth date,
41 address or relation to the sex offender shall be excluded from the
42 [subdirectory distributed for purposes of public access. The subdirecto-
43 ry provided for herein shall be updated monthly to maintain its effi-
44 ciency and usefulness and shall be computer accessible. Such subdirecto-
45 ry shall be made available at all times on the internet via the division
46 homepage] DIRECTORY.

47 (D) THE DIVISION SHALL, ON ITS INTERNET HOMEPAGE, PROVIDE A MEANS FOR
48 ANY PERSON TO REGISTER TO RECEIVE NOTICE AT SUCH PERSON'S ELECTRONIC
49 MAIL ADDRESS OF ALL SEX OFFENDERS WHO RESIDE OR MOVE INTO THE AREA
50 ENCOMPASSED BY SUCH PERSON'S ZIP CODE. THE DIVISION SHALL PROVIDE TIMELY
51 NOTICE BY ELECTRONIC MAIL TO EACH PERSON WHO REGISTERS PURSUANT TO THIS
52 PARAGRAPH OF EVERY SEX OFFENDER RESIDING IN AND OF EVERY SEX OFFENDER
53 WHO MOVES INTO THE PERSON'S ZIP CODE. SUCH NOTICE SHALL INCLUDE ALL
54 INFORMATION AUTHORIZED TO BE DISCLOSED ON EACH SUCH SEX OFFENDER PURSU-
55 ANT TO PARAGRAPH (A) OR (B) OF THIS SUBDIVISION.

1 2. Any person who uses information disclosed pursuant to this section
2 in violation of the law shall in addition to any other penalty or fine
3 imposed, be subject to a fine of not less than five hundred dollars and
4 not more than one thousand dollars. [Unauthorized removal or duplication
5 of the subdirectory from the offices of local, village or city police
6 department shall be punishable by a fine not to exceed one thousand
7 dollars.] In addition, the attorney general, any district attorney, or
8 any person aggrieved is authorized to bring a civil action in the appro-
9 priate court requesting preventive relief, including an application for
10 a permanent or temporary injunction, restraining order, or other order
11 against the person or group of persons responsible for such action. The
12 foregoing remedies shall be independent of any other remedies or proce-
13 dures that may be available to an aggrieved party under other provisions
14 of law.

15 S 4. This act shall take effect on the one hundred eightieth day after
16 it shall have become a law.